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## "Never I Go Back!"

BY JOHN BARRON

*When the Chicago police came for him, Walter Polovchak was 12 years old. He stood barely four feet tall, weighed 84 pounds and was very frightened. Walter had run away to prevent his parents from taking him back to the Soviet Union.*

*At the police station, he tried to explain: "Here is free country. I go church, nobody punish me. I go back, they put me in jail or to mental house. Never I go back!"*

*But powerful forces—both Soviet and American—soon arrayed themselves against Walter Polovchak, placing his future in grave doubt. This is the ongoing story of a courageous youngster who sought only to live in freedom.*

UNTIL LATE 1979 Walter Polovchak lived in a Ukrainian town with his parents, his 16-year-old sister Nataly and 5-year-old brother Michael, Jr. Walter's mother worked in a factory. His father drove a bus and dealt on the black market, selling gifts of clothing and other items received from relatives in the United States. He displayed little interest in the children and quarreled, sometimes violently, with their mother.

The children did have one friend, their maternal grandmother, who in fact raised them until her death earlier

that year. An earnestly religious woman, she imbued them with Ukrainian traditions, Christian values and her own Catholic faith.

On Sundays, schoolteachers patrolled outside the church to record the names of children attending mass. In school, those children were punished with degrading chores. One Christmas Eve, Walter was kept in the classroom late into the night and made to recite Marxist slogans until church services were over.

**KGB Payoff.** The circumstances under which the Polovchak family immigrated to America in January 1980 were at best curious. For more than a decade, the Soviet Union had seldom allowed anyone except Jews and dissidents to leave. The Polovchaks were neither. Many Soviet citizens had been fired from their jobs or carted off to mental institutions merely for expressing a desire to emigrate. Inexplicably, the Polovchak family was allowed to leave.

Instead of selling the home he had built with black-market earnings, however, Polovchak "lent" it to a nephew, and he gave such possessions as his valuable carpets and crystal to a local KGB official. On the plane to the United States, he made it clear he had no intention of settling there permanently.

The children paid little attention

to their father's remarks. Their expectations about the new land were not high. All their lives they had been told that for ordinary people America was a land of crime, hunger, unemployment and misery.

But on arrival in Chicago to stay with an aunt (who had emigrated in 1968 with her son), Walter found a different America. The first night, he devoured unfamiliar delicacies: Jell-O, bananas and ice cream. Having bathed perhaps once a month, he luxuriated in his first shower and slept soundly.

The next day his cousin, who recently had obtained a job as a computer engineer after working his way through college, showed Walter and Nataly supermarkets and stores. Walter brimmed with questions: Who owns all these cars? Who owns the supermarket? Where are the guards? How do they keep people from stealing all the food?

As they approached a toll booth, Walter froze at the sight of uniformed men. "I have no papers!" he exclaimed. His cousin explained that Americans do not need passports to travel about their own country. "You can just go wherever you want?" Walter asked in disbelief.

The boy attended church as often as he wished, and at the neighborhood public school he found that teachers did not berate him for his religious beliefs.

"State Property." Walter's cousin gave him a bicycle. On it the boy ranged far and wide, exploring and discovering for himself. Soon he had fallen in love with freedom—the freedom, as he put it, to "smile in school"; the freedom to worship, wander, speak and dream; the free-

dom to make of himself all he could, as his cousin had done; above all, the freedom from being afraid.

Nataly, who shared Walter's happiness in America, marveled at his transformation. So did a teacher who observed, "Walter has changed from a robot to a kid learning to laugh and have a good time."

Polovchak had received several thousand dollars from his relatives in the States and, helped by the Ukrainian community, he and his wife found jobs even though neither knew English; the couple took home about \$1200 a month. Meanwhile, support for the children came largely from Walter's cousin.

By summer 1980, having saved nearly \$8000, Polovchak announced he was returning to the U.S.S.R. With the savings he could buy American goods worth a fortune on the Soviet black market. But a problem arose.

As telephone records show, Polovchak called the Soviet embassy in Washington, D.C. Knowingly or not, he probably was talking to the KGB, which is charged with manipulating Soviet émigrés and recovering defectors. Apparently, the Soviets told him that Walter, who traveled on his father's passport and was considered salvageable state property, would have to go back with him. Nataly, about to celebrate her 18th birthday, was beyond their control.

Walter was terrified. On July 14, he ran away with Nataly, taking refuge in their cousin's apartment until the police, notified by the boy's father, picked him up. Walter's cousin telephoned a prominent Chicago attorney, Julian Kulas, for help.

Petition for Freedom. No man could have better understood what was at stake than Julian Kulas. Born in the Ukraine, Kulas had watched in horror as a boy when Nazi soldiers dragged his father away. Late in World War II, he and his mother miraculously found his father in a forced-labor factory in Germany. Following the war, Kulas and his parents came to the United States. After working his way through law school, Kulas tried to repay America by donating legal services to the

Ukrainian community, working in politics, accepting a Presidential appointment to the U.S. Holocaust Memorial Council, and becoming chairman of a Chicago Helsinki-agreement watch committee, which monitors human-rights violations in the Soviet Union. During his military service, Kulas also became a U.S. Army Intelligence officer specializing in Soviet affairs and, remaining active in the Reserves, rose to the rank of colonel.

From the police station, Kulas urgently appealed to the State Department and a juvenile-court judge who told police to entrust Walter to Kulas overnight and scheduled a hearing for the next morning. There Judge Joseph Mooney ruled that Walter should stay with his cousin and Nataly pending a formal hearing in ten days. Kulas then took Walter to the Immigration and Naturalization Service to apply for religious and political asylum. Two days later, the government granted Walter formal asylum—making him the youngest defector in U.S. history.

By then, Kulas was receiving menacing calls. Chicago newspapers, reporting the juvenile-court hearing, quoted Kulas about the retaliation that Walter would suffer if deported to the U.S.S.R. The next day Peter Prilepskiy of the Soviet embassy in Washington telephoned. "What right do you have to slander the Soviet Union?" he shouted. From his intelligence sources, Kulas learned that Prilepskiy was a KGB major masquerading as Third Secretary of the embassy.

The defection and grant of asylum to a 12-year-old boy commanded worldwide headlines, and Walter became a symbol of free-world reproach to the Soviets. Kulas feared that the KGB would invoke all its powers to recapture Walter. He was right.

At the formal hearing, Prilepskiy showed up with translated statements from the parents. Three attorneys from the American Civil Liberties Union also appeared—not to defend Walter's liberty but to argue that he must be consigned to his parents, the equivalent of forcible deportation. "The real issue here," volunteer ACLU attor-

ney Richard L. Mandel declared, "is whether the state has the right to interfere in the rights of a parent to say where his child will live."

Because of Walter's assertions that he would run away again, however, Judge Mooney allowed him to stay in his aunt's home under temporary supervision of the Department of Children and Family Services.

Tough Team. The ACLU challenged the ruling and filed suit in federal court to overturn Walter's grant of asylum on the ground that his parents were not consulted. The ACLU also persuaded social workers

that Walter should be removed from his aunt's home to a "neutral foster home." Nataly cried as Walter said good-by.

"Don't worry," he told her. "I will do anything to stay in the United States."

Now a battery of ACLU lawyers raised constitutional issues—and for all his legal skills, Kulas was not a constitutional lawyer. Then in Westchester County, New York, news of the case alarmed lawyer-novelist Erika Holzer. From research for her book *Double Crossing* she knew what the Soviets would do to Walter if they recaptured him. Wanting to help, she telephoned Kulas; her husband, Henry Holzer, associate dean of the Brooklyn Law School and a professor of constitutional law, soon volunteered to join in Walter's defense.

Holzer and Kulas were an ideal team. Holzer grew up in the Bronx and served in U.S. Army Intelligence during the Korean War. Whereas Kulas was courtly and soft-spoken, Holzer was an intellectual street fighter who viewed the ACLU with cold contempt. "The ACLU likes to avoid dealing with what will happen to Walter if he has to go back," he said. "To me, that is like Adolf Eichmann saying that he just took people to the death camps, and what happened to them there was none of his business."

Donating his time and talent, Holzer flew frequently to Chicago to argue the case in court and chart strategy with Kulas—who also contributed his own time and money to Walter's defense. (Had the two attorneys charged minimum fees, the

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cost of the case would have exceeded \$1.5 million.) Along the way, Kulas received numerous anonymous death threats: "Fascist! Your Time Is Coming!" one note warned. Also Kulas's office was burglarized—though only Walter's file was taken. Another time, someone stole Kulas's car, doused it with gasoline and torched it.

**Rescue Mission.** The specter of eventual deportation hung daily over Walter. Yet he persevered, improved his English and earned passing grades in school. On the playground he excelled in soccer and made friends.

On August 12, 1981, while watching television, Nataly heard ACLU attorney Harvey Grossman disclose that her parents had abruptly returned to the Soviet Union with their youngest child. They would return for Walter when the courts awarded them custody, Grossman said. Neither had bothered to say farewell to Nataly or Walter.

Ordinarily the departure of the Polovchaks would have pleased Kulas and Holzer, for it might weaken the parents' claims. But several days earlier, an announcement had stunned them. A Justice Department official had pledged that if the courts gave the parents custody, the government would "not in any way interfere" with their taking Walter to the Soviet Union. This effectively nullified Walter's grant of asylum.

The ACLU appeal, meanwhile, had prevented hearings at which Kulas and Holzer were ready to challenge Polovchak's fitness as a father and to depict deportation as the ultimate form of child abuse. Now, if the Illinois Appellate Court

confined itself to the narrow legal issue of whether a 12-year-old who runs away just once is beyond parental control, it might well decide against Walter. The grant of asylum had been the boy's only protection.

Desperately, Kulas appealed to then Illinois Congressman Edward Derwinski. Holzer wrote an angry letter to Attorney General William French Smith, asserting that a grant of asylum is "unconditional and irrevocable." He sent a copy to columnists Rowland Evans and Robert Novak. On August 26, 1981, these columnists cited this agreement as an example of how bureaucrats were running the Justice Department in defiance of Reagan Administration policies. The column, coupled with information from Derwinski, produced rage in the White House. Two days later, the Justice Department repudiated the agreement with the ACLU.

On December 30, 1981, the Illinois Appellate Court found insufficient evidence to justify the juvenile-court ruling that Walter should be supervised by the state. The decision, in effect, awarded custody to the parents. At this point, only the asylum—under full ACLU assault in court—prevented Walter's forced return to the Soviet Union.

The ACLU contended that at 12, Walter was too young to know whether he wanted political asylum. To a newspaper reporter who asked about this, Walter replied, "You don't have to be that old to know the difference between two countries."

In the Balance. Preparing for trial in the ACLU suit to nullify the asylum, Kulas and Holzer lined up an

array of former Soviet citizens to testify from firsthand experience what Walter would suffer if he fell into Soviet hands. Aleksandr Solzhenitsyn's wife, Natalia, warned that he either would have to commit "spiritual suicide" by lying, or undergo the terrors of imprisonment. All experts agreed that at best he could expect nothing but misery because his pursuit of freedom had made him, in Soviet eyes, a "traitor."

Today, Walter's case is still pending. While Nataly trains to be a nutritionist, Walter hopes to become a computer specialist. A husky, typically American teen-ager, he plays soccer and baseball and works part-time in a supermarket.

But on October 3, 1985, he will be 18—under Illinois law, an emancipated adult. No matter what the courts might later rule, he will be free and can then become an American citizen.

On a recent Sunday morning in Chicago, Walter, Nataly and their cousin joined me for breakfast. They came very early because they were going to church, and afterward Walter had to work. I asked him what his thoughts have been during his long ordeal of uncertainty.

"Growing up is hard for anybody," he said. "Always being afraid of having to go back there made it harder. But I would do it a thousand times again. I *will* be an American. I *will* be free."